

**PT 98-3**

**Tax Type: PROPERTY TAX**

**Issue: Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

---

<b>PRAIRIE DU PONT PRESERVATION SOCIETY</b>	)		
	)		
Applicant	)		
	)	Docket #	94-82-61
v.	)		
	)	Parcel Index #	06-10.0-317-013
<b>THE DEPARTMENT OF REVENUE OF THE STATE OF ILLINOIS</b>	)		
	)		

---

**RECOMMENDATION FOR DISPOSITION**

**Synopsis:**

The hearing in this matter was held on January 13, 1997, at 1100 East Port Plaza Drive Collinsville, Illinois, to determine whether or not St. Clair County Parcel Index No. 06-10.0-317-013 (hereinafter referred to as "parcel No. -013") should be exempt from real estate taxation for the 1994 assessment year.

Parcel No. -013 was unilaterally created by St. Clair County in 1994 by combining St. Clair County Parcel Index Nos. 06-10.0-317-002 (hereinafter referred to as "parcel No. -002") and 06-10.0-317-003 (hereinafter referred to as "parcel No. -003"). At the time that parcel Nos. -002 and -003 were combined, into parcel No. -013, parcel No. -002 had been determined to be exempt by the Illinois Department of Revenue (hereinafter referred to as the "Department"). At that time parcel No. -003 was not exempt. The Application for Exemption in this matter was originally filed by the Prairie Du Pont Preservation Society (hereinafter referred to as the "Applicant") on parcel No. -003. After St. Clair County combined parcel Nos. -002 and -003

during 1994, the County changed the number on this application to the combined parcel No. -013.

Ms. Linda Hay, a board member of the Prairie Du Pont Preservation Society was present and testified on behalf of the applicant.

The issues presented in this matter include, first, whether the applicant was the owner of parcel No. -003 during the 1994 assessment year; secondly, whether the applicant is a charitable organization; and lastly, whether the applicant either was in the process of adapting parcel No. -003 for charitable use or actually used said parcel for charitable purposes during the 1994 assessment year. Following the submission of all of the evidence and a review of the record, it is determined that the applicant owned parcel No. -003 during the entire 1994 assessment year. It is also determined that the applicant is a charitable organization. Finally, it is determined that the applicant was either adapting parcel No. -003 for charitable use or using said parcel for charitable purposes during the 1994 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Department in this matter, namely that parcel No. -013 did not qualify for exemption for the 1994 assessment year, was established by the admission in evidence of Department's Ex. Nos. 1 through 5A.

2. The applicant acquired parcel No. -003 by a warranty deed dated July 23, 1993. (Dept. Ex. No. 1B)

3. The applicant was incorporated on January 22, 1981, as the Prairie DuPont Community Association pursuant to the "General Not For Profit Corporation Act" of Illinois. (Dept. Ex. No. 1H)

4. By an amendment to the Articles of Incorporation, dated February 26, 1987, the name of the corporation was changed to the present name, Prairie DuPont Preservation Society. (Dept. Ex. No. 1I)

5. An amendment to the Articles of Incorporation dated January 29, 1991, added the following language to the purpose clause:

The Society is organized exclusively for educational purposes within the meaning of Section 501-C-3 of the Internal Revenue Code. (Dept. Ex. No. 1J)

6. Parcel -003 is adjacent to St. Clair Parcel Index Nos. 06-10.0-317-001 and 06-10.0-317-002 which are improved with the Martin/Boismenu House. (Tr. pp. 14 & 15, Appl. Ex. Nos. 4 & 9)

7. I take Administrative Notice of the fact that the Director of Revenue exempted St Clair County Parcel Index Nos. 06-10.0-317-001 and 06-10.0-317-002, owned by the applicant on March 5, 1992, in Docket No. 91-82-225. (Appl. Ex. No.10)

8. The Martin/Boismenu House is believed to be the oldest house in the State of Illinois. (Dept. Ex. Nos.1F & 1G)

9. During 1994, the Martin/Boismenu House was in the process of historical restoration. During the restoration process, the applicant worked closely with the Illinois Historic Preservation Agency. (Tr. pp. 17-20, & 21)

10. During 1994, parcel No. -003 was used for parking by the construction workers and others working on the Martin/Boismenu House. (Tr. p. 17)

11. During 1994, the Martin/Boismenu House was covered by a pole barn, to protect it from the weather and was surrounded by a fence. However, anyone who wanted a tour of the house was given a tour and received an explanation of the history of the house. (Tr. pp. 17 & 18)

12. The restoration of the Martin/Boismenu House began in 1994. The restoration of the house continued through 1995 and was completed in 1996. The house, beginning in 1996, has been available for tours as a restored historical site. (Tr. pp. 16-20)

13. During 1994 and 1995 there was no charge for the tours. Beginning in 1996, when the restoration was completed, a donation box was placed in the house but no charge was made for the tours. (Tr. pp. 19-24)

14. During 1995 and 1996, parcel No. -003 continued to be used for parking. During the restoration it was used by construction workers and after completion of the work, it has been used for parking by visitors. (Tr. pp. 19-24)

15. During 1996, as a part of the restoration project, the electric service cable and the gas line to the Martin/Boismenu House were buried across parcel No. -003 and the electric and gas meters for the house were placed on this parcel. (Tr. pp. 20 & 21)

Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

35 **ILCS** 200/15-65 provides in part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity;
- (b) beneficent and charitable organizations incorporated in any state of the United States....

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

I conclude that the applicant owned parcel No. -003 during the entire 1994 assessment year.

In view of the Department's determination in Docket No. 91-82-225, I conclude that the Department has determined that the applicant is a charitable organization, and also that the parcels on which the Martin/Boismenu House is located, St. Clair County Parcel Index Nos. 06-10.0-317-001 and 06-10.0-317-002 qualified for exemption during 1991. Consequently I conclude that the applicant qualifies as a charitable organization.

35 ILCS 200/15-125 exempts certain property from taxation in part as follows:

Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption, are exempt.

Illinois Courts have consistently held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of County Collector, 48 Ill.App.3d 572 (1st Dist. 1977); and Weslin Properties, Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2nd Dist. 1987). I therefore conclude that since the applicant was in the process of restoring the Martin/Boismenu House during all of 1994 it was in the process of adapting said property for exempt use. Since parcel No. -003 is adjacent to the parcels on which the Martin/Boismenu House is located, and was used for parking by construction workers and others engaged in the process of restoring the house, I conclude that said parcel qualifies for exemption from real estate taxation for 1994, pursuant to 35 ILCS 200/15-125 cited above.

Consequently, since I have determined that parcel No. -003 qualifies for exemption and the Department has previously determined in Docket No. 91-82-225 that parcel No. -002 qualified for exemption, combined parcel No. -013 which consist of those two parcels also qualifies for exemption.

I therefore recommend that parcel No. -013 be exempt from real estate taxation for the 1994 assessment year.

Respectfully Submitted,

---

George H. Nafziger  
Administrative Law Judge  
January 9, 1998